

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:**SUSAN BELLERBY****Debtor****BK. No. 17-10221-amc****Chapter No. 13**

**WELLS FARGO BANK, NATIONAL
ASSOCIATION AS TRUSTEE FOR SOUNDVIEW
HOME LOAN TRUST 2007-OPT2, ASSET-BACKED
CERTIFICATES, SERIES 2007-OPT2**

Movant**11 U.S.C. §362 and §1301****v.****SUSAN BELLERBY**

**DONALD R. BELLERBY (Non-Filing Co-Mortgagor)
Respondents**

**MOTION OF WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR
SOUNDVIEW HOME LOAN TRUST 2007-OPT2, ASSET-BACKED CERTIFICATES,
SERIES 2007-OPT2 FOR RELIEF FROM AUTOMATIC STAY AND CO-DEBTOR STAY
UNDER §362 and §1301 PURSUANT TO BANKRUPTCY PROCEDURE RULE 4001**

Movant, by its attorneys, PHELAN HALLINAN DIAMOND & JONES, LLP, hereby requests a termination of Automatic Stay and Co-Debtor Stay and leave to foreclose on its mortgage on real property owned by Debtor SUSAN BELLERBY and Non-Filing Co-Mortgagor DONALD R. BELLERNY.

1. Movant is **WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR SOUNDVIEW HOME LOAN TRUST 2007-OPT2, ASSET-BACKED CERTIFICATES, SERIES 2007-OPT2.**

2. Debtor, SUSAN BELLERBY and Non-Filing Co-Mortgagor DONALD R. BELLERNY is the owner of the premises located at **914 State Road, Croydon, PA 19021-6119**, hereinafter known as the mortgaged premises.

3. Movant is the holder of a mortgage on the mortgaged premises.

4. Debtor's failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.

5. Movant wishes to proceed with foreclosure proceedings on the mortgage

6. The foreclosure proceedings were stayed by the filing of the instant Chapter 13 Petition.

7. As August 16, 2017, Debtor has failed to tender post-petition mortgage payments for the months of June 2017 through August 2017. The monthly payment amount for the months of June 2017 through August 2017 is \$972.85 each, less suspense in the amount of \$302.00, for a total amount due of \$2,616.55. The next payment is due on or before September 1, 2017 in the amount of \$972.85. Under the terms of the Note and Mortgage, Debtor has a continuing obligation to remain current post-petition and failure to do so results in a lack of adequate protection to Movant.

8. Movant additionally seeks relief from the co-debtor stay under 1301 (c) (if applicable) in the instant case, as the continuation of the co-debtor stay causes irreparable harm to the Movant. Movant may be barred from moving forward with its state court rights under the terms of the mortgage without relief from the co-debtor stay.

9. Movant, **WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR SOUNDVIEW HOME LOAN TRUST 2007-OPT2, ASSET-BACKED CERTIFICATES, SERIES 2007-OPT2**, requests the Court award reimbursement in the amount of \$1,031.00 for the legal fees and costs associated with this Motion.

10. Movant has cause to have the Automatic Stay and Co-Debtor Stay terminated as to permit Movant to complete foreclosure on its mortgage.

11. Movant specifically requests permission from the Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law.

12. Movant, it's successors and assignees posits that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3),

and that Movant, its successors or assignees should be allowed to immediately enforce and implement the Order granting relief from the Automatic Stay and Co-Debtor Stay.

13. OCWEN LOAN SERVICING, LLC services the underlying mortgage loan and note for the property referenced in this Motion for Relief for WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR SOUNDVIEW HOME LOAN TRUST 2007-OPT2, ASSET-BACKED CERTIFICATES, SERIES 2007-OPT2 (the noteholder) and is entitled to proceed accordingly. Should the Automatic Stay and Co-Debtor Stay be lifted and/ or set aside by Order of this Court or if this case is dismissed or if the debtor obtains a discharge and a foreclosure action is commenced or recommenced, said foreclosure action will be conducted in the name of WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR SOUNDVIEW HOME LOAN TRUST 2007-OPT2, ASSET-BACKED CERTIFICATES, SERIES 2007-OPT2 (the noteholder). WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR SOUNDVIEW HOME LOAN TRUST 2007-OPT2 (the noteholder) has the right to foreclose because Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to Noteholder or has been duly endorsed.

WHEREFORE, Movant respectfully requests that this Court enter an Order;

a. modifying the Automatic Stay and Co-Debtor Stay under Section 362 with respect to **914 State Road, Croydon, PA 19021-6119** (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its successors and assignees, to proceed with its rights under the terms of said Mortgage; and

b. Movant specifically requests permission from this Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law; and

d. holding that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3), and that Movant, its successors or assignees, should be allowed to immediately enforce and implement the Order granting relief from the Automatic Stay and Co-Debtor Stay; and

e. Granting any other relief that this Court deems equitable and just.

/s/ Thomas Song, Esquire

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